

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DUKHAN MUMIN,)	4:17CV3032
)	
Plaintiff,)	MEMORANDUM
v.)	AND ORDER
)	
SCOTT FRAKES, et al.,)	
)	
Defendants.)	
)	

This matter is before the court on its own motion. In a memorandum and order entered on December 6, 2016 (Filing No. [11](#)), Plaintiff was granted leave to proceed in forma pauperis. Upon further review, the court finds such memorandum and order was entered in error.

As stated in the Prison Litigation Reform Act, a prisoner cannot “bring a civil action . . . or proceeding [in forma pauperis] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action . . . in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” [28 U.S.C. §1915\(g\)](#).

The following three cases brought by Plaintiff, while a prisoner, were dismissed as frivolous or for failure to state a claim:

- *Mumin v. Bartee*, Case No. 8:95CV291 (D. Neb.) (dismissed as frivolous);
- *Mumin and Watkins v. Dunning*, Case No. 8:98CV359 (D. Neb.) (dismissed for failure to state a claim); and
- *Mumin v. Mayo*, Case No. 8:12CV313 (D. Neb.) (defendants’ motions to dismiss for failure to state a claim granted).

Accordingly, Plaintiff has until April 27, 2017, to show cause why this matter should not be dismissed pursuant to [28 U.S.C. §1915\(g\)](#). Alternatively, Plaintiff may pay the full \$400.00 filing and administrative fees no later than April 27, 2017. In the absence of good cause shown or the payment of the necessary fees, this matter will be dismissed without further notice.

IT IS ORDERED:

1. The court's memorandum and order entered on December 6, 2016 (Filing No. [11](#)), is set aside and vacated. The clerk of the court shall notify Plaintiff's institution to stop collecting partial filing fee payments and shall remit any funds already collected pursuant to the vacated order.
2. Plaintiff's motion for leave to proceed in forma pauperis (Filing No. [3](#)) is denied.
3. Plaintiff has until May 27, 2017, to either show cause why this case should not be dismissed pursuant to 28 U.S.C. §1915(g) or pay the full \$400.00 filing and administrative fees. In the absence of either action by Plaintiff, this matter will be dismissed without further notice.
4. The clerk of the court is directed to set a pro se case management deadline in this matter with the following text: April 27, 2017: Deadline for Plaintiff to show cause or pay fees.

DATED this 28th day of March, 2017.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge